

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

1712 SOUTH PRAIRIE LLC, et al.,)
)
)
Plaintiffs,)
)
)
v.) No. 07 C 6703
) Judge David H. Coar
HONORABLE ROBERT FIORETTI,) Magistrate Judge Nan Nolan
)
)
Defendant.)

AGREED MOTION TO DISMISS COUNT VI AND OTHER REQUESTS FOR RELIEF

Defendant Alderman Robert Fioretti, by his attorney, Mara S. Georges, Corporation Counsel for the City of Chicago (“Alderman Fioretti”), and Plaintiffs 1712 South Prairie LLC, Kargil Development Partners LLC, Keith Giles, and Jerry Karlik, by their attorney, Miller Shakman & Beem (“Plaintiffs”) (collectively with Alderman Fioretti, “Parties”), hereby move this Court for entry of an order dismissing, without prejudice, Count VI of Plaintiffs’ Verified Complaint for Mandamus and for Injunctive, Declaratory and Monetary Relief (the “Complaint”) and Plaintiffs’ requests in Counts I, II, III, and IV that the Court enter preliminary and permanent injunctive relief barring Alderman Fioretti from taking any further steps to prevent or delay the Zoning Committee or the City Council from holding a hearing and vote on the Fioretti Revocation Ordinance. In support of their agreed motion, the Parties state as follows:

1. Plaintiffs filed their Complaint on October 25, 2007, in the Circuit Court of Cook County of the State of Illinois, Chancery Division. On November 29, 2007, Fioretti removed Plaintiffs’ action to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

2. In their Complaint, Plaintiffs challenge Alderman Fioretti’s introduction of an ordinance that, if enacted, would repeal the City Council’s approval of a Plan of Development for

Plaintiffs' property and amend the zoning for the property to the DX-5 zoning classification. Such an amendment, if enacted, would prohibit Plaintiffs from developing their property consistent with the previously-approved Plan of Development.

3. On November 20, 2007, Alderman Fioretti withdrew the ordinance at issue.
4. On December 20, 2007, the Parties' counsel met pursuant to Fed. R. Civ. P. 26(f) and this Court's Order dated December 20, 2007. The Parties discussed the impact of Alderman Fioretti's withdrawal of the ordinance on Plaintiffs' claims.
5. As a result of the withdrawal of the ordinance, the Parties agree that Plaintiffs' requests in Counts I, II, III, and IV that the Court enter preliminary and permanent injunctive relief barring Alderman Fioretti from taking any further steps to prevent or delay the Zoning Committee or the City Council from holding a hearing and vote on the Fioretti Revocation Ordinance, should be withdrawn as moot. The Parties further agree that Count VI, in which Plaintiffs ask this Court to issue a mandamus compelling Alderman Fioretti to withdraw his hold on the City Council's consideration of his proposed ordinance, should also be withdrawn as moot.

WHEREFORE, the Parties respectfully request that this Court: (a) enter an order dismissing, without prejudice, Count VI of Plaintiffs' Complaint and Plaintiffs' requests in Counts I, II, III, and IV that the Court enter preliminary and permanent injunctive relief barring Alderman Fioretti from taking any further steps to prevent or delay the Zoning Committee or the City Council from holding a hearing and vote on the Fioretti Revocation Ordinance; and (b) grant the Parties such further relief as this Court deems just and appropriate. A proposed agreed order is being submitted

to the Court via e-mail pursuant to the Court's standing order.

Date: January 4, 2008

Respectfully submitted,

MARA S. GEORGES
Corporation Counsel for the City of Chicago

By: /s/ William Macy Aguiar
Assistant Corporation Counsel

Mardell Nereim
William Macy Aguiar
Rebecca Alfert
City of Chicago, Department of Law
Constitutional and Commercial Litigation Division
30 North LaSalle Street, Suite 1230
Chicago, Illinois 60602
(312) 744-6975, 744-4216, 742-0260

Agreed to: 1712 SOUTH PRAIRIE LLC, KARGIL
DEVELOPMENT PARTNERS LLC,
KEITH GILES and JERRY KARLIK

By: /s/ Daniel M. Feeney
One of Their Attorneys

Michael Shakman
Daniel M. Feeney
Jennifer E. Smiley
Miller Shakman & Beem LLP
180 North LaSalle Street, Suite 3600
Chicago, IL 60601
(312) 263-3700